

REMARKS

Claims 1-22 and 73-84 were pending in the application at the time the present Office Action was mailed. Claims 1, 14, 73, 79 and 80 have been amended to clarify certain aspects of the claims. Claim 16 has been rewritten in independent form to include all the features of corresponding base claim 14. Accordingly, any subsequent rejection of claim 16 based on new grounds cannot be made final. Claims 74 and 75 have been cancelled without prejudice, and claims 99-105 have been added. Accordingly, claims 1-22, 73, 76-84, and 99-104 are now pending in the present application.

Claims 1-22 and 73-84 were rejected in the present Office Action. Specifically, the status of the claims in light of the Office Action is as follows:

(A) Claims 7 and 13-22 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;

(B) Claims 1, 3, 6-8, 12, 14-17, 19, 21, 73-75, 77-81, 83 and 84 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,693,413 to McFarland, et al. ("McFarland");

(C) Claims 1, 3 and 79 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,873,017 to Blatt ("Blatt");

(D) Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over McFarland in view of U.S. Patent No. 4,268,255 to Kantz ("Kantz");

(E) Claims 4, 5, 8-11, 18, 20, 22, 76 and 82 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McFarland;

(F) Claims 13 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McFarland in view of U.S. Patent No. 5,279,423 to Shuert ("Shuert"); and

(G) Claims 1-3, 8, 14, 15, 19, 21, 22, 73, 74, 76 and 79-84 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,489,061 to Fogle, et al. ("Fogle") in view of U.S. Patent No. 5,497,939 to Heiskell, et al. ("Heiskell").

The undersigned attorney wishes to thank the Examiner for engaging in a telephone interview on December 15, 2003 to discuss the present Office Action. The following remarks summarize and expand on the results of the interview and reflect the agreements reached between the undersigned attorney and the Examiner during the interview.

A. Response to the Section 112, Second Paragraph, Rejection of Claims 7 and 13-22

Claims 7 and 13-22 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 7 is directed to a corrugated container body that includes, *inter alia*, an inner tube sleeved within an outer tube. The outer tube includes at least four side panels with bottom flaps that foldably extend from each of the side panels. As recited by claim 7, each of the side panels includes an outer first ply and an inner second ply, and the bottom panels foldably extend from the outer first ply.

With regard to claim 7, the Office Action maintains that it is unclear what is meant by "the first ply being outboard of the second ply." During the December 15 telephone interview, the undersigned attorney directed the Examiner's attention to Figure 3 and paragraph 29 of the present application for an example of a corrugated container having an outer tube 301 with a first ply 401 outboard of a second ply 402. The Examiner acknowledged that in view of at least Figure 3 and the corresponding text, claim 7 was not indefinite. Therefore, the rejection should be withdrawn.

Claim 13 depends from base claim 1. Base claim 1 is directed to a corrugated container body that includes, *inter alia*, an outer tube having a first score line offset from a second score line, and an inner tube having a third score line offset from a fourth score line. With regard to claim 13, the Office Action maintains that "it is unclear what elements comprise the first and second score lines." As discussed during the December 15 telephone interview, however, the score lines of claim 13 are clearly

defined in base claim 1. Accordingly, claim 13 is not indefinite and the rejection should be withdrawn.

Claim 14 is directed to a foldable corrugated container structure that includes, *inter alia*, an outer laminate forming at least a first outer panel and a second outer panel, and an inner laminate forming at least a first inner panel and a second inner panel. Claim 14 recites that "the inner laminate is at least partially bonded to the outer laminate with the first inner panel positioned adjacent to the first outer panel to form a first wall, and the second inner panel positioned adjacent to the second outer panel to form a second wall."

With regard to claim 14, the Office Action maintains that it is unclear how the first inner panel can be positioned adjacent to the first outer panel. During the December 15 telephone interview, the undersigned attorney directed the Examiner's attention to one or more of Figures 3-7 of the present application for a number of examples of corrugated containers in which an inner panel is positioned adjacent to a corresponding outer panel. In view of at least these examples, claim 14 is not indefinite and the rejection should be withdrawn.

Claims 15-22 depend from base claim 14. The Office Action does not include any specific indefiniteness rejections directed to dependent claims 15-22. Accordingly, the undersigned attorney assumes that the Section 112, second paragraph, rejection of dependent claims 15-22 was based solely on the corresponding rejection of base claim 14. For the reasons discussed above, however, the Section 112, second paragraph, rejection of claim 14 should be withdrawn. Therefore, the Section 112 rejection of claims 15-22 should also be withdrawn.

B. Response to the Section 102 Rejection of Claims 1, 3, 6-8, 12, 14-17, 19, 21, 73-75, 77-81, 83 and 84

Claims 1, 3, 6-8, 12, 14-17, 19, 21, 73-75, 77-81, 83 and 84 were rejected under 35 U.S.C. § 102(b) as being anticipated by McFarland.

1. Independent Claims 1, 14, 73 and 79 are Directed to Corrugated Containers that Include, *Inter Alia*, Corner Portions with Offset Score Lines at Which at Least Two or More Plies of Corrugated Paperboard are Compressed Along each Score line

Independent claims 1, 14, 73 and 79 are directed to corrugated containers that include, *inter alia*, corner portions with score lines in which at least first and second plies of corrugated paperboard are compressed. The corrugated paperboard is compressed in a manner that reduces the material thickness of each of the first and second plies along each score line. For example, claim 1 is directed to a corrugated container body that includes an inner tube sleeved within an outer tube. The outer tube includes at least first and second plies of corrugated paperboard. The corrugated paperboard in each of the first and second plies is compressed along a first score line to reduce the material thickness of the first and second plies along the first score line. The corrugated paperboard in each of the first and second plies is also compressed along a second score line offset from the first score line to reduce the material thickness of the first and second plies along the second score line. The inner tube includes third and fourth score lines that are at least generally similar to the first and second score lines of the outer tube. Independent claims 14, 73 and 79 include features that are at least generally similar to those included in claim 1.

Figure 4 of the present application illustrates an example of a corrugated container body having score lines that compress at least two plies of corrugated paperboard. As explained in paragraph 30 of the present application with reference to Figure 4, an outer tube 301 can include a first ply 401 of corrugated paperboard laminated to a second ply 402. In addition, an inner tube 302 can include a third ply 403 of corrugated paperboard laminated to a fourth ply 404 and a fifth ply 405. As further explained, the outer tube 301 can include a first score line 411 offset from a second score line 412, and the inner tube 302 can include a third score line 413 offset from a fourth score line 414. As Figure 4 clearly illustrates, the first and second score lines 411 and 412 compress both the first ply 401 and the second ply 402 of the outer tube 301. Similarly, the third and fourth score lines 413 and 414 compress all three of the third ply 403, the fourth ply 404, and the fifth ply 405 of the inner tube 302. As paragraph 31

explains, "[e]ach of the score lines 411-414 can be produced by compressing the adjacent corrugated material along a substantially straight line to thereby reduce the material thickness along the line."

2. McFarland is Directed to a Corrugated Container with Score Lines that Compress, at Most, a Single Ply of Corrugated Paperboard

As shown in Figure 7 of McFarland, this reference teaches a corrugated container having an outer ply 10 and an inner ply 96. The outer ply 10 is a single ply of double-wall corrugated material, as is the inner ply 96. A set of score lines 44 and 46 is formed in the outer ply 10, and a similar set is formed in the inner ply 96. Each of the score lines 44 and 46 compresses, at most, a single ply of corrugated material. For example, the score lines 44 and 46 in the outer ply 10 compress, at most, the single ply of double-wall corrugated paperboard that makes up the outer ply 10. Similarly, the score lines 44 and 46 on the inner ply 96 compress, at most, the single ply of double-wall corrugated paperboard that make up the inner ply 96.

3. McFarland Cannot Support a Section 102 Rejection of Independent Claims 1, 14, 73 and 79 for at Least the Reason that this Reference Fails to Teach or Suggest Score Lines in Which at Least First and Second Plies of Corrugated Paperboard are Compressed

Each of the independent claims 1, 14, 73 and 79 is directed to a corrugated container that includes, *inter alia*, score lines in which at least first and second plies of corrugated paperboard are compressed. The corrugated container body of claim 1, for example, includes an outer tube having at least first and second plies of corrugated paperboard that are compressed along first and second score lines. In contrast, the outer ply 10 of McFarland has only a single ply of double-wall corrugated paperboard that is compressed along the score lines 44 and 46. In fact, nowhere does McFarland teach a score line in which more than a single ply of corrugated material is compressed. Even if the outer ply 10 or the inner ply 96 shown in Figure 3 of McFarland is misconstrued to include two plies of corrugated paperboard because of the double-wall design, the score lines 44 and 46 still do not meet the language of claim 1 because they only compress, at most, one layer of the double-wall corrugation and not both.

Accordingly, McFarland cannot support a Section 102 rejection of independent claims 1, 14, 73 and 79 for at least this reason, and the rejection should be withdrawn.

Claims 3, 6-8 and 12 depend from base claim 1. Claims 15, 19 and 21 depend from base claim 14. Claims 74, 75, 77 and 78 depend from base claim 73. Claims 80, 81, 83 and 84 depend from base claim 79. Accordingly, McFarland cannot support a Section 102 rejection of dependent claims 3, 6-8, 12, 15, 19, 21, 74, 75, 77, 78, 80, 81, 83 and 84 for at least the reasons discussed above with regard to the corresponding base claims, and for the additional features of these dependent claims. Therefore, the rejection of dependent claims 3, 6-8, 12, 15, 19, 21, 74, 75, 77, 78, 80, 81, 83 and 84 should be withdrawn.

4. Independent Claim 16 is Directed to a Foldable Corrugated Container Structure that Includes, *Inter Alia*, an Outer Laminate Having at Least First and Second Plies, and an Inner Laminate Having at Least Third, Fourth and Fifth Plies

Claim 16 has been rewritten in independent form to include all of the features of corresponding base claim 14. Accordingly, any subsequent rejection of claim 16 based on new grounds cannot be made final. Claim 16 is directed to a foldable corrugated container that includes an out laminate and an inner laminate. The outer laminate includes first and second plies with a first score line offset from a second score line. The inner laminate includes third, fourth and fifth plies with a third score line offset from a fourth score line.

5. McFarland Cannot Support a Section 102 Rejection of Independent Claim 16 for at Least the Reason that this Reference Fails to Teach or Suggest a Foldable Corrugated Container Having an Outer Laminate with First and Second Plies and an Inner Laminate with Third, Fourth and Fifth Plies

Independent claim 16 is directed to a corrugated container that includes, *inter alia*, an outer laminate having first and second plies, and an inner laminate having third, fourth and fifth plies. Thus, the container of claim 16 includes a total of at least five plies. In contrast, the container taught by McFarland includes, at most, only four plies. (See, e.g., plies 10, 96 and 60 in Figure 7 of McFarland, and/or the reference to plies 10

and 60 as forming a "double-ply laminate" in column 3 at lines 27-32.) Accordingly, McFarland cannot support a Section 102 rejection of claim 16 for at least this reason. Therefore, the rejection should be withdrawn.

Claim 17 depends from claim 16. Accordingly, McFarland cannot support a Section 102 rejection of claim dependent claim 17 for at least the reasons discussed above with regard to the rejection of base claim 16, and for the additional features of dependent claim 17. For example, claim 17 recites that the corrugated container structure of claim 16 includes five plies of double-wall corrugated paperboard. In contrast, the most McFarland teaches is a corrugated container having a total of three plies of double-wall corrugated paperboard. (See, for example, Figure 7 of McFarland.) Therefore, McFarland cannot support a Section 102 rejection of dependent claim 17 for at least this additional reason, and the rejection should be withdrawn.

C. Response to the Section 102 Rejection of Claims 1, 3 and 79

Claims 1, 3 and 79 were rejected under 35 U.S.C. § 102(b) as being anticipated by Blatt.

1. Blatt Cannot Support a Section 102 Rejection of Claim 1 for at Least the Reason that this Reference Fails to Teach or Suggest a Corrugated Container Having an Outer Tube with at Least First and Second Plies, and an Inner Tube Having at Least Third and Fourth Plies

Independent claim 1 is directed to a corrugated container body that includes, *inter alia*, an outer tube having at least four outer side panels and an inner tube having at least four inner side panels. As discussed in detail above, each outer side panel includes at least first and second plies of corrugated paperboard, and each inner side panel includes at least third and fourth plies of corrugated paperboard. Thus, the container body of claim 1 includes at least four plies of corrugated paperboard. In contrast, the polygonal shipping container of Blatt includes, at most, only three plies. For example, as shown in Figure 10 of Blatt and explained in column 2 at lines 49-53 the "sidewalls of the carton are formed of three double-faced corrugated paperboard blanks which are dye-cut, slit and scored as separate units and assembled to provide the carton with a triple ply, laminated sidewall construction as hereinafter described."

(Emphasis added.) Accordingly, Blatt cannot support a Section 102 rejection of independent claim 1 for at least the reason that this reference fails to teach or suggest a corrugated container body that includes at least four plies of corrugated paperboard. Therefore, the rejection of claim 1 should be withdrawn.

Claim 3 depends from base claim 1. Accordingly, Blatt cannot support a Section 102 rejection of dependent claim 3 for at least the reasons discussed above with regard to the rejection of base claim 1, and for the additional features of this dependent claim. Therefore, the rejection of claim 3 should be withdrawn.

2. Blatt Cannot Support a Section 102 Rejection of Independent Claim 79 for at Least the Reason that this Reference Fails to Teach or Suggest Scoring a Laminate to produce a score line at which the Material Thickness of at Least Two Plies of Corrugated Paperboard is reduced

Claim 79 is directed to a method for producing a foldable corrugated container structure that includes, *inter alia*, scoring a laminate to produce a score line at which the material thickness of at least first and second plies of corrugated paperboard is reduced. In contrast, all that Blatt discloses is scoring a single ply of corrugated paperboard to reduce, at most, the material thickness of the corrugated paperboard in the single ply. Nowhere does Blatt teach scoring a laminate to reduce the material thickness of corrugated paperboard in two or more plies of the laminate at the score line. Accordingly, Blatt cannot support a Section 102 rejection of claim 79, and the rejection should be withdrawn.

D. Response to the Section 103 Rejection of Claim 2

Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over McFarland in view of Kantz. Claim 2 depends from base claim 1. As discussed above with regard to the Section 102 rejection of claim 1 in view of McFarland, McFarland cannot support a Section 102 rejection of claim 1. Further, Kantz fails to cure the deficiencies of McFarland with regard to claim 1. Indeed, the Office Action only relies on Kantz to provide the eight side panel feature of dependent claim 2. Therefore, McFarland and Kantz cannot support a Section 103 rejection of dependent claim 2 for at least the reason that these references, either alone or in combination, cannot support a

Section 103 rejection of corresponding base claim 1. Therefore, the rejection of claim 2 should be withdrawn.

E. Response to the Section 103 Rejection of Claims 4, 5, 8-11, 18, 20, 22, 76 and 82

Dependent claims 4, 5, 8-11, 18, 20, 22, 76 and 82 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McFarland. Rather than identify where the prior art teaches the features of these dependent claims, or identify where the prior art provides the motivation to modify McFarland with such features, the Office Action simply makes the assertion that "it would have been obvious to one of ordinary skill in the art to provide third, fourth and fifth plies in McFarland to provide the desired support for the inner layer." Applicant respectfully disagrees with this assertion, however, because nowhere does McFarland indicate that additional support is required for the inner layer of his invention. For a proper rejection under Section 103, the prior art, not the Office Action, must suggest the motivation to modify a reference in the claimed manner.

Claims 4, 5 and 8-11 depend from base claim 1. Claims 18, 20 and 22 depend from base claim 14. Claim 76 depends from base claim 73, and claim 82 depends from base claim 79. As discussed above with regard to the Section 102 rejection of base claims 1, 14, 73 and 79 in view of McFarland, McFarland cannot support a Section 102 rejection of these base claims. Further, the unsupported assertion in the Office Action that "it would have been obvious to one of ordinary skill in the art to provide" the missing features of the dependent claims does not cure the deficiencies of McFarland with regard to base claims 1, 14, 73 and 79. Accordingly, McFarland cannot support a Section 103 rejection of dependent claims 4, 5, 8-11, 18, 20, 22, 76 and 82 for at least the reason that this reference cannot support a Section 103 rejection of the corresponding base claims, and for the additional features of the dependent claims. Therefore, the rejection of dependent claims 4, 5, 8-11, 18, 20, 22, 76 and 82 should be withdrawn.

F. Response to the Section 103 Rejection of Claims 13 and 21

Claims 13 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McFarland in view of Shuert. Claim 13 depends from base claim 1, and claim 21

depends from base claim 14. As discussed above with regard to the Section 102 rejection of base claims 1 and 14 in view of McFarland, McFarland cannot support a Section 102 rejection of base claims 1 and 14 for at least the reason that this reference fails to teach or suggest the score lines of the claims. Further, Shuert fails to cure this deficiency of McFarland. Indeed, the Office Action only relies on Shuert to provide the outer surface score lines of dependent claims 13 and 21. Accordingly, McFarland and Shuert cannot support a Section 103 rejection of dependent claims 13 and 21, and the rejection should be withdrawn.

G. Response to the Section 103 Rejection of Claims 1-3, 8, 14, 15, 19, 21, 22, 73, 74, 76 and 79-84

Claims 1-3, 8, 14, 15, 19, 21, 22, 73, 74, 76 and 79-84 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fogle in view of Heiskell.

1. Fogle Teaches a Carton with Score Lines Formed in Singular Plies of Paperboard

As shown in Figure 1 of Fogle, this reference teaches a container 10 having a flexible cover sheet 12 and rigid end panels 14. As Fogle explains, the flexible cover sheet 12 is formed by a blank 38 that includes a series of parallel score lines that allow the flexible cover sheet 12 to be folded. The flexible cover sheet 12 may be formed of paperboard or other suitable flexible materials such as pressed board. (See column 2 of Fogle at lines 23-60.)

2. Fogle and Heiskell Cannot Support a Section 103 Rejection of Claims 1-3, 8, 14, 15, 19, 21, 22, 73, 74, 76 and 79-84 for at Least the Reason that These References, Either Alone or in Combination, Fail to Teach or Suggest a Corrugated Container Having Offset Score Lines in Which at Least First and Second Plies of Corrugated Paperboard are Compressed

Each of the independent claims 1, 14, 73 and 79 is directed to a corrugated container that includes, *inter alia*, offset score lines in which at least two plies of corrugated paperboard are compressed. As the Office Action concedes, however, Fogle fails to teach score lines in corrugated material. To overcome this shortfall, the Office Action relies on Heiskell to teach that it is known in the art to make a carton such

as that taught by Fogle out of corrugated material. Even accepting this premise (and applicant does not), neither Fogle nor Heiskell teach or suggest score lines in which at least two plies of corrugated paperboard are compressed. All these references teach are score lines in which, at most, a single ply of paperboard, pressed board, or another flexible material is compressed. Accordingly, Fogle and Heiskell, either alone or in combination, cannot support a Section 103 rejection of base claims 1, 14, 73 and 79 for at least this reason. Therefore, the rejection of claims 1, 14, 73 and 79 should be withdrawn.

Claims 2, 3 and 8 depend from base claim 1. Claims 15, 19, 21 and 22 depend from base claim 14. Claims 74 and 76 depend from base claim 73. Claims 80-84 depend from base claim 79. Accordingly, Fogle and Heiskell cannot support a Section 103 rejection of dependent claims 2, 3, 8, 15, 19, 21, 22, 74, 76 and 80-84 for at least the reason that these references cannot support a Section 103 rejection of corresponding base claims 1, 14, 73 and 79, and for the additional features of these dependent claims. Therefore, the rejection of dependent claims 2, 3, 8, 15, 19, 21, 22, 74, 76 and 80-84 should be withdrawn.

Claims 99-105 have been added by this amendment. New claims 99-102 depend from base claim 1, and are directed to, *inter alia*, selected features of the corner portions of the corrugated container body of claim 1. For example, some of these claims are directed to corner portions in which a gap exists between inner and outer tubes. New claims 103-105 are directed to corrugated container bodies that include, *inter alia*, inner and outer tubes that are at least partially bonded together. For example, in at least one of these claims, the inner and outer tubes are bonded together in the absence of adhesive in the corner portions. In contrast, McFarland, for example, teaches the use of an adhesive strip in the corner portion of a corrugated container.

H. Conclusion

In view of the foregoing, the claims pending in the application comply with 35 U.S.C. § 112 and patentably define over the applied art. Therefore, a Notice of Allowance is respectfully requested. If the Examiner has any questions or believes

another telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned attorney at (206) 359-6351.

Respectfully submitted,

Perkins Coie LLP



Stephen E. Arnett

Registration No. 47,392

Date: Dec 23, 2003

Correspondence Address:

Customer No. 25096

Perkins Coie LLP

P.O. Box 1247

Seattle, Washington 98111-1247

(206) 583-8888